

~~STATE NATURAL RESOURCES~~
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TESTIMONY IN OPPOSITION TO SB 337

Greg Jergeson (406-444-6166)
Chairman, Montana Public Service Commission
February 9, 2007

Mr. Chairman and Members of the Committee,

The Public Service Commission opposes SB 337. SB 337 conflicts with the re-integration approach the PSC supports for NorthWestern Energy and its ratepayers. Under the current electric restructuring law, NorthWestern is the default supplier operating in an environment where the utility does not have load certainty because the current restructuring model presumes there are or will be competitive electricity suppliers vying for customers. The uncertainty of its electric load is an impediment to NorthWestern's ability to plan for and procure electricity supply at optimal terms and prices, whether through power purchase agreements or, if re-integration is successful, through acquisition of its own generation facilities. The PSC's re-integration bill, HB 434, as well as other re-integration bills, revise current law to provide load certainty to NorthWestern by eliminating supplier choice for all but industrial customers and those few small customers who are already served by a competitive supplier.

In contrast with the load certainty approach the PSC supports, SB 337 would allow broadly defined "buying cooperatives" to supply electricity to their members, thus contributing to the load uncertainty currently faced by NorthWestern.

SB 337 is internally inconsistent. Provisions on page 3, lines 4-6, preclude a buying cooperative from purchasing electricity for or selling electricity to customers larger than 100 kilowatts, average monthly demand. (Examples of customers with loads in the 50-100 kilowatt demand range include fast food restaurants, convenience stores, casinos, car washes and tire shops.) However, provisions on page 1, lines 16-22, state that tribes, rural electric cooperatives, municipal electric utilities or the state of Montana may be members of a buying cooperative. These entities will most certainly have loads larger than 100 kilowatts, and may have loads of tens of megawatts or more.

Section 1, subsection (2), should be revised to strike everything after the word "bylaws." The provision that envisions the PSC assigning customers to a buying cooperative is an existing provision in law that has never been used and serves no purpose. The revised provision would

read: "A member may join a buying cooperative by the methods prescribed in the buying cooperative's bylaws."

The PSC recommends a DO NOT PASS on SB 337.

Dear Member of the Committee Natural Resources & Energy:

Various questions have arisen about the Green Energy Buying Cooperative (GECBO) that may or may not come up during the hearing on SB 337. We appreciated the opportunity to appear before you and hope the following will address those questions. We would be happy to address any other questions raised as well. Any support for GECBO owning renewable electric generation that you feel comfortable giving would be appreciated.

Question	Answer
1) HB 330 will enhance the likelihood that counties can use zero interest bond funding they have obtained by creating revenue bond authority for counties. How does this relate to SF 337 and the GECBO zero interest bond application?	<ul style="list-style-type: none">■ The SB 337 GECBO zero interest bond application has nothing to do with the HB 330 Matney-Frantz Engineering city/county application for authority to issue zero interest bonds.■ The GECBO proposal is not faced with the same problem regarding being able to use zero interest bond funding. Counties need the same authority to issue revenue bonds that cities have so they will not encumber their bonding limits and so they will not be on the hook in case of a default. HB 330 will help them get that revenue bonding authority. On the other hand, GECBO has clear authority to issue bonds. It will be on the hook in case of a default--not a public entity.■ However, the issues are separate and require separate legislation. GECBO's legislation is SB 337.
2) Why does GECBO need legislation now?	<ul style="list-style-type: none">■ Currently, GECBO cannot own energy infrastructure (wind, solar and biomass machines) even though it obtain \$31.7 in financing to build windmills. It does GECBO and Montana no good if GECBO has only part of the authority it needs to expedite the arrival of clean energy in Montana.■ Unless the window of opportunity closes, GECBO can obtain Vestas windmills this year. That would save its customers \$1 million needed to cover 25% (bridge financing) for down payments on windmills if it has to wait 2 years for equipment.
3) Does GECBO need assurances from Bond Counsel?	<ul style="list-style-type: none">■ GECBO has hired McLiney & Associates, Investment Bankers, the most experienced QZAB/CREBs advisers in the country, to advise it on CREBs issues. You may call Mr. Joe McLiney at (816) 221-4042 and he can refer you to his bond counsel at Dorsey & Whitney, Dan Semmers/Mae Nan Ellingson, if needed.
4) Who issues the bonds? And who is on the hook in the case of default?	<ul style="list-style-type: none">■ GECBO issues the bond and owns the project until the bonding period is up. GECBO and whoever purchases the bonds bear all risk. No public entity is at risk on these bonds. CREBs issued by GECBO do not encumber public bonding limits or influence public entity bond ratings.

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Question	Answer
5) Who pays for the bonds?	<ul style="list-style-type: none"> ■ GEBCO. Our CREBS projects use asset-based financing. The windmill or solar collectors serve as the asset. Reasonable estimates can be made of how much energy a project will produce. Before bonds are issued purchase power agreements are signed or other methods of repaying the bonds are indicated in the financing agreements according to strict financial disclosure standards governing financial prospectuses. The 5% cost of the issuance comes from bond proceeds. If the bonds are not issued, there are no fees.
6) Will the bonds sell?	<ul style="list-style-type: none"> ■ The bond market will determine that. This is a new type of issue. It took a while for QZABs (zero interest school funding bonds) to catch on. However, GEBCO's Investment Bankers believe they can sell the bonds.
7) Who buys the bonds?	<ul style="list-style-type: none"> ■ Anyone who can take advantage of the tax credits. It is likely that institutions will be the first investors.
8) GEBCO is just beginning to market to members. How will that affect bond sales?	<ul style="list-style-type: none"> ■ GEBCO's Investment Bankers indicate that they have placed bonds for communities with as few as 50 inhabitants. Bonds for a megawatt of wind will be sold for every 300 customers who sign up with GEBCO or who can be reasonably anticipated to sign up within a short time period.
9) If a customer decides to stop taking power from GEBCO may they?	<ul style="list-style-type: none"> ■ Of course. GEBCO by-laws allow a customer to stop being a member of the cooperative without penalty. Some legislative proposals are attempting to say that the monopoly does not have to take the customer back. If that becomes the case, GEBCO will negotiate agreements with other area cooperatives or producers for service. GEBCO will also petition the PSC to promulgate a re-entry tariff so existing customers of the monopoly are not harmed by the re-entry.
10) What will this uncertainty in GEBCO's customer base do to bond sales?	<ul style="list-style-type: none"> ■ The bond market will determine that. GEBCO's Investment Bankers indicate they have placed natural gas revenue bonds where the issuers do not have customers or a guarantee of customers.
11) Who would maintain and operate the windmills?	<ul style="list-style-type: none"> ■ O&M agreements will be in place in the GEBCO projects and the cost of those is already calculated into the spreadsheets on the projects.

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Question	Answer
12) How would this affect existing customers who do not choose to take green energy?	<ul style="list-style-type: none">■ The effect should be minimal. In Colorado and elsewhere, the fact that some customers created the market for clean energy has brought the price of wind down to below the cost of conventional generation. Some of those windmills have gone into rate structures as the cheapest cost alternative, benefiting customers generally. Some of those windmills have remained dedicated to serve customers who signed up for green energy buying programs. In that case because the cost of providing black electrons has often exceeded the cost of providing green electrons, those green power customers are now paying less for energy during much of the year.■ A full discussion of this issue requires an examination of whether folks switching to renewables leave unrecovered costs on the system for others to pay. These are called embedded costs. Northwestern Energy does not have any embedded costs for generating plant because it chose to sell its generating plants by becoming mostly deregulated. So having folks switch to renewables on Northwestern's system does not raise a problem with embedded generation costs. There are none left.■ Embedded generation costs on MDU's system require a slightly different analysis. MDU has not had a general rate case since the 1980s. Much of its generating plant is becoming fully depreciated. That means there is very little embedded cost to worry about, certainly not any that existing customers can not easily defray.■ Also, there is no loss from embedded transmission costs because GECBO will still have to pay to use Northwestern's or MDU's distribution lines, much in the same way that different phone companies settle up for completing calls from competing networks.■ To the extent that Northwestern has requirements contracts (where it only takes the energy it needs) there is no cost question either. You don't have to pay for what you don't take.■ MDU sells power generated through coal and gas it sells to its subsidiaries. It doesn't have to pay its subsidiaries for fuel it doesn't use.■ To the extent that Northwestern energy, MDU, and rural electric cooperatives can get revenue they otherwise would not have received because of distributed green energy generation and fuller use of substations and transmission lines, existing customers benefit because more use means more folks to pay for the line.

Question	Answer
13) What if we do not support renewables? How would a failure to support renewables affect existing customers who would prefer not to buy black electrons or contribute to global climate change and pollution?	<ul style="list-style-type: none"> ▪ Consumers who continue to support the creation of new, poorly conceived, and unnecessary embedded costs force customers who wish to go a different route into paying for embedded costs of black electrons that they do not want to buy. Those costs will take years to pay off -- 34 years or more for coal -- making it much tougher financially to address the problems of global climate change and tougher to reduce green house gases released by fossil fuel burning because the money needed to do that will be tied up or it will be more costly to pay off ill-conceived plants in order to make the change to less fossil fuel in the generation mix.
14) Doesn't Northwestern Energy already have a green energy product?	<ul style="list-style-type: none"> ▪ Yes. However, it is not the same as GEBCO's green energy product. We hope competition will improve Northwestern's product. ▪ Northwestern sells green tags offered by the Bonneville Foundation. However those do not include an energy component. All Northwestern customers are buying are the environmental benefits. The power is produced mostly in Washington. ▪ GEBCO is planning to offer both energy and environmental benefits – Montana renewable energy for Montanans. That way when the price of black electrons rises above the price of green electrons, folks who choose green energy will see a price advantage. ▪ 600 utilities in the US have green energy products. MDU is not one of them. And Northwestern Energy has done very little to market its product or make it as attractive as utilities who have marketed green power aggressively.
15) What happens when the wind doesn't blow?	<ul style="list-style-type: none"> ▪ All CREBs projects are hooked to the grid. So when the wind does not blow the energy simply comes from the grid. GEBCO will arrange for that backup power, sometimes called ancillary or firming power. ▪ Wind is primarily an energy source intended to replace dirtier energy sources and sources with fuel and pollution control costs when cleaner wind or solar power is available. ▪ Utilities in New Mexico use conventional coal plants to "firm" wind. Sometimes it is firmed with other sources, water, geothermal, compressed air storage, for example. ▪ It is a myth that only natural gas fired generation "backs" wind. If they are built in Montana, new generation IGCC coal plants will be ideal for firming wind because they can be ramped up quickly.

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Question	Answer
<p>16) Northwestern contends that it will have difficulty finding future ancillary power. Will the entry on the grid of your projects make it even more difficult to obtain ancillary power?</p>	<ul style="list-style-type: none"> ▪ No, GEBCO will not need to utilize the PSC's ancillary power tariff because as a co-op we have public power sources for ancillary power that are not available to the investor owned utilities that Northwestern obtains its ancillary power from. Therefore, because Northwestern will not be providing ancillary power to GEBCO, the assertion that Northwestern is limited in its ability to obtain ancillary power is immaterial since it does not apply to the power we will be adding to its system. ▪ Since GEBCO can obtain ancillary power from sources that are not available to Northwestern to provide load following for its two 10 MW projects, that leaves the available ancillary power for the 50 MW of QF (qualified facility) wind that the PSC has found the system can handle without detriment to existing Northwestern customers.
<p>17) What about interconnection agreements?</p>	<ul style="list-style-type: none"> ▪ Interconnection agreements are no problem. ▪ Section 1254 requires a utility to interconnect its customer's renewable energy equipment that meets IEEE Safety Standard 1547. ▪ The Ottertail Power Case requires utilities to wheel power across their lines for other utilities. ▪ The Public Utility Regulatory Act (PURPA) requires a utility to interconnect certain generators to its transmission grid. ▪ Also FERC Order 888 establishes open access transmission. ▪ If future GEBCO projects are smaller (for example entail the loaning of money to promote individuals owning solar collectors, or fuels for schools biomass cogeneration units), section 1251 of the Federal Energy Policy Act of 2005 required utilities to interconnect any customer with net metering. Anyone in Montana may net meter loads up to 50 kW.
<p>18) What if the existing utility will not let you use its meters?</p>	<ul style="list-style-type: none"> ▪ The meters are a part of the distribution system that the customer has paid for. GEBCO customers would continue paying for the distribution system as part of the interconnection agreement. Or GEBCO could pay the utility for the remaining, undepreciated cost of the meter serving a customer. In the alternative GEBCO could install newer smart meters (and seek a reduction in the distribution cost tariff because it is not allowed to use the meters its customers have mostly paid for). Smart meters will help the utility keep its peak load down.

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	<ul style="list-style-type: none">■ The best known model for one utility's use of another's facilities in a competitive market is where phone companies transmit messages across each other's lines and share revenue through settlement tariffs.■ From a legal point of view transmission and distribution of electrons from one utility's system to another's is pretty much taken care of because of the Federal Energy Regulatory Commission's Open Access Transmission Tariffs (OATTS), FERC Order 888; Sections 1251 and 1254 of the 2005 Federal Energy Policy Act; the Ottertail Power and Gregory Swecker cases, MCA 35-19-101 et seq., and federal and state PURPA laws.■ Northwestern now moves power from the Bonneville Power Administration to Southern Montana G & T which serves five Montana Cooperatives. The tariff cost Southern Montana pays to Northwestern for that is \$0.00744/kwh for movement in the transmission grid.■ The cost for movement of power in Northwestern's distribution system is around \$0.03/kwh. The exact amount appears on Northwestern power bills.■ The power generation costs from all NWE suppliers are now passed through to the customer without Northwestern making any money on the power itself. GEBCO power generation costs would be treated similarly even if billed through GEBCO. The distribution costs (i.e. revenues) to get the power to the ultimate customer are the same whether or not that power comes from PPL's coal facilities or our wind turbines.■ Northwestern would not be out anything from the transaction, since all it makes money on now is transmission and distribution. That is a result of its own choice to sell its generation facilities.■ On the other hand, Northwestern customers who would prefer to buy green electrons now will not be forced to pay for new coal generation. They will be able to purchase reliable, clean, renewable energy that carries with it no escalating fuel or pollution control cost. Once our windmills are paid for, the cost of providing truly clean energy will drop.■ That is, our program is different from the "green tag" program offered by Northwestern because once our wind turbines are paid for (in about 16-17 years) our customers will be able to vote themselves a rate reduction to reflect that fact. That is not now possible under Northwestern's green tag program. MDU does not currently have a green tag program.
19) How does electricity get to me?	<ul style="list-style-type: none">■ Sometimes a utility will bill for another utility if the two utilities have contracted for that to happen. However, GEBCO can also bill independently if a billing contract is not negotiated.
20) Who will I get my power bill from?	

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Question	Answer
21) What if there is a tornado? How will customers be served?	<ul style="list-style-type: none"> ■ GEBCO sophisticated spreadsheet has calculated a substantial amount for insurance costs into its maintenance budget to protect against weather-related losses. ■ Properly negotiated construction contracts typically deal with the contractor insuring against the risk for construction related losses. ■ Distributed wind and solar power generation has less of a chance of being completely wiped out than say a melt down of a nuclear plant or terrorist hit of a coal generating facility. ■ Norway did see its first tornado ever last summer -- likely a result of global warming. Severe weather is a possibility for all utilities as we have seen during the aftermath of Katrina where fossil fuel caused global warming intensified a storm that left many without utility service. ■ We can partially "self-insure" ourselves against more severe weather by reducing greenhouse gas emissions if we produce more power from renewable resources.
22) GEBCO is proposing small, 10 MW facilities which are less cost effective than larger projects. Is this a good business model?	<ul style="list-style-type: none"> ■ Despite some efficiency gained from large projects, small, community-based wind farms have important cost advantages over large wind development. ■ A <u>May 2005 US Dept of Energy study</u> (http://www.eere.energy.gov/windandhydro/windpoweringamerica/pdfs/38154_econdev_compare_state_wide.pdf) showed that wind power brings higher direct economic benefits to local economies than any other form of new electricity, including from coal and natural gas. ■ A <u>September 2004 US General Accounting Office study</u> (http://www.gao.gov/new.items/d04756.pdf) found that local ownership of wind systems generates an average of 2.3 times more jobs and 3.1 times more local dollar impact compared to "out of area" interests. For example, a single 40 MW project built in Pipestone County, Minnesota, would generate about \$650,000 in new income for the county annually. In contrast, 20 locally owned projects at 2 MW each (40 MW total) would generate about \$3.3 million annually in the same county.
23) Are there any safety concerns we need to worry about?	<ul style="list-style-type: none"> ■ When renewable energy started to be integrated on electric grids in the 1970s there was some concern that stray voltage on a line would endanger linemen working to fix a downed line. Much progress has been made since that time in developing industry standards. ■ The main interconnection standard is American National Standard ANSI/IEEE Std 1547. Our windmills will comply. With the advent of computerization, they can sense when power is not going into the grid and shut down. In some cases, large windmills are being asked to provide ride through power in the event of grid problems to get the grid restored faster. Other safeguards are in place to protect utility workers where ride through is provided.

Question	Answer
24) Some say they will support SB 337 only if GEBCO changes its business model to sell power only as a qualified facility (QF). Why not do that?	<ul style="list-style-type: none"> ▪ If GEBCO changed its business model to become a Qualified Facility (QF), selling power to the utility under QF tariffs, it would loose the ability to finance through Clean Renewable Energy Bonds and Montana would lose \$32 million in clean energy. GEBCO is constrained by state law (35-19-201) to selling electricity to its members and only selling the excess on the wholesale market. ▪ If it were to become a QF, only selling power outside of the cooperative model, that would change GEBCO's ability to qualify for Clean Renewable Energy Bonds and to qualify for ancillary power from sources not available to investor owned utilities. Those supporting deregulation do not require the re-regulated monopolies to change their business models to become municipals or cooperative. Forcing Green Electricity Buying Cooperatives to a different business model would change the law GEBCO has relied on when incorporating, a law supported by a unanimous Montana Senate and by all but two members of the Montana House of Representatives. ▪ QF tariffs only pay about 4.15 cents/kwh for electricity (after subtracting the \$0.0075 cost of ancillary power in the QF tariff order)--below what is needed in order to amortize the cost of new wind turbines in approximately 16 years under the zero-interest Clean Renewable Energy Bond financing rules. Refurbished turbines as proposed for the city/county projects could meet that price, however, there are not that many refurbished turbines around. ▪ The QF tariff is designed to work in conjunction with the 1.9 cent/kwh tax credit. Since GEBCO is a co-op it cannot use the tax credit to help make its projects work. Clean Renewable Energy Bonds were designed to work with entities like co-ops, tribes and governments that cannot use the tax credit to finance projects. ▪ If GEBCO becomes a QF that tends to erases the financial benefit of being a green power cooperative customer, namely that once the windmills are paid for the co-op members can vote themselves a customer rebate. ▪ The PSC does not have a tariff that says if people buy green power, they will not be charged for future increases in pollution control, carbon capture, or fuel cost increases (because people who buy green power do not add to any of those things.) ▪ Restricting GEBCO to being a QF would kill clean renewable energy bond financing. The cost of buying green energy will be greater for a few years until the costs curves cross as fuel and pollution control costs rise for black electrons. There is no way for the market to reflect that advantage outside of the cooperative model or tariffs that reflect the eventual cost advantage persons who are committed to keeping the Big Sky blue will eventually have if they pay more initially. ▪ GEBCO's entry into the QF market limits the ability of other producers to produce under the 50 MW ceiling the PSC has set before it reevaluates its order on power coming from qualified facilities. We think the more wind the better up to at least 20 percent renewable energy in the mix and have developed a model to facilitate that.

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Question	Answer
<p>25) What effect will GEBCO's two 10 MW projects have on existing customers of the monopolies?</p>	<ul style="list-style-type: none"> ■ The PSC's December 19, 2006 Order No. 6501f, paragraph 190 in Docket D2005.6.103 indicates that if it restructures, the NWE will purchase approximately 10 to 30 percent of its resource needs from the short term market. ■ Acquisition of 50 MW of new QF wind power would represent approximately 2% of NWE's projected load. The Order found "Thus NWE's ratepayers would not experience increased risk as a result of the QF rate option." ■ This is far less than the 50 MW the PSC has already determined that the system can handle without risk to ratepayers. ■ It should not matter where the 50 MW of non-monopoly supplied renewable power comes from. To limit it to QFs illegally discriminates against green electricity buying cooperatives.
<p>26) How do you address the assertion that total monopolization of the electric power supply is necessary because the monopolies need to plan for their load?</p>	<ul style="list-style-type: none"> ■ Monopolization is not a guarantee of effective planning. The regulated and unregulated utility industry spent \$100 billion to build 200 gigawatts of excess combined cycle natural gas plants that imploded as the over-building drove the price of natural gas up. ■ GEBCO's projects will have a minimal effect on load planning. Even if fully re-regulated, NWE will still purchase 10 to 30 percent of its energy from the short term market, and it will purchase approximately 1.5% less on that market if GEBCO's projected projects enter the picture. ■ Part of the monopoly planning for its load is to negotiate requirements contracts that say it does not have to take power if there is no need for it. This would happen if a major industrial customer left the system for example. If that is not already done, the PSC would have authority to order that kind of procurement contract.
<p>27) Specifically, how will GEBCO affect the ability of the monopolies to plan?</p>	<ul style="list-style-type: none"> ■ If all authorizations to issue the Green Buying Cooperative CREBs are utilized, GEBCO will be providing 10 to 20 MW of non-QF power to NWE's system depending on how much is not used east of the Miles City intertie. This is far less than the 50 MW the PSC has already determined that the system can handle without risk to ratepayers. ■ When the 50 MW of additional power from sources not in the monopoly's plan is reached, the PSC will reevaluate the limit set in Order No. 6501f. ■ If the monopolies and others are worried about migration off their systems to other forms of power suppliers, they can always reevaluate their supply plans to better meet the needs of their customers.

Question	Answer
<p>28) How does NW Energy deal with the default supply if Gebco goes out of business or if customers wish to go back to being served by the monopoly?</p>	<ul style="list-style-type: none"> ■ The wind mills and the short term power market will still be there to serve customers. ■ To the extent that NWE does not have to purchase power it would otherwise purchase for GEBCO customers, it slightly reduces the risk of market fluctuations. That is, the utility would only have to purchase 8.5 to 28.5 percent of its power in the 3-5 year market. If GEBCO ceases to exist, the utility would only have to resume purchasing what it otherwise would have purchased if GEBCO did not exist. And the benefit GEBCO will provide to existing utility customers by reducing their market risk goes away. No harm no foul. ■ If this is a cost concern, the proper way to deal with it is for the PSC to provide a reintegration tariff for customers who wish to be reintegrated to the investor owned utility. Customers would know of their cost risk of leaving NWE prior to making the switch to co-op provided green power.
<p>29) Some would say there is an essential conflict with the Green Buying Cooperative approach and this year's theme of regulating utilities.</p>	<ul style="list-style-type: none"> ■ A regulated monopoly can exist side by side with a green buying and generating cooperative. We know this because there is a well tested model other than a regulated monopoly model that shuts green buying cooperatives and others out of the market. For example, the telecommunications industry is regulated and partially regulated and yet allows for competition. The deregulation legislation can provide for a similar model. GEBCO's Executive Director has testified for deregulation without pre-approval provisions and without provisions restricting customers who choose to obtain a product the monopoly does not provide. ■ The Green Buying Co-op approach is consistent with the time-honored Teddy Roosevelt Republican and New Deal Democrat approach of limiting monopoly power; ■ It is consistent with the principle that Montanans can help each other by producing our own energy while keeping the Big Sky blue; ■ In all important respects, it is consistent with the PSC statement that "The most desirable result would be a diverse mix of new, small QF resources (e.g., small hydro, biomass, cogeneration, wind)." Whether those new, small, distributed sources are QF or green buying cooperative-owned will not effect the rates of those who still want mostly dirty electrons; and ■ Consistent with the principle that we would rather not pay exorbitant prices to out of state energy producers who have in the past hornswoggled the watchdogs.